

REMARKS

In response to the Decision on Appeal dated October 23, 2008, where the Appeal Board gave the option to reopen prosecution, the Applicants hereby request that prosecution be reopened. The Applicants have amended claims 1, 9 and 13 and canceled claims 5 and 10. Claims 1-4, 6-9 and 11-20 are in the case. Reexamination and reconsideration of the application, as amended, are requested.

First, the Appeal Board affirmed the Examiner's rejection of claims 1-4, 6-9 and 11-12 under 35 U.S.C. § 103(a) as being unpatentable over Thomas (U.S. Patent No. 6,567,101), Silverbrook (U.S. Patent No. 6,405,055) and Feinstein (U.S. Patent No. 6,46,198).

Second, although the Appeal Board reversed the Examiner's rejection of claims 13-20 under 35 U.S.C. § 103(a) as being unpatentable over Thomas (U.S. Patent No. 6,567,101), Silverbrook (U.S. Patent No. 6,405,055) and Feinstein (U.S. Patent No. 6,46,198), the Appeal Board's decision contained a new ground of rejection. Namely, the Appeal Board rejected claims 13-20 under 35 U.S.C. § 103(a) as being unpatentable over Schrock (U.S. Patent No. 5,923,908) and Thomas (U.S. Patent No. 6,567,101).

Last, the Appeal Board reversed the Examiner's rejection of claims 5 and 10 under 35 U.S.C. § 103(a) as being unpatentable over Thomas (U.S. Patent No. 6,567,101), Silverbrook (U.S. Patent No. 6,405,055) and Feinstein (U.S. Patent No. 6,46,198).

Hence, in response to the Appeal Board's decision that the Appeal Board did **not** find the features of claims 5 and 10 in the cited references (see page 14 the Decision on Appeal dated October 23, 2008), the Applicants have amended independent claims 1 and 9 to include the limitations of claims 5 and 10, respectively. In addition, the Applicants have amended independent claim 13 to include the limitations of claim 5.

In particular, independent claims 1, 9 and 13 now include that the predetermined threshold is "user-adjustable." In contrast, the Applicants submit that combined cited references do **not** disclose, teach or suggest all of the features of the independent claims, in light of these amendments to the claims. Specifically, nowhere in the combined cited references is there a disclosure, teaching or suggestion of the

Applicants' user-adjustable predetermined threshold, **as agreed by the Appeal Board** on page 14 of the Decision on Appeal dated October 23, 2008.

As such, since any combination of the cited references fails to disclose, teach or suggest all of the Applicants' newly claimed features, the Applicants submit that the obviousness rejections should be withdrawn. *MPEP 2143*.

With regard to the dependent claims, because they depend from the above-argued respective independent claims, and they contain additional limitations that are patentably distinguishable over the cited references, these claims are also considered to be patentable (MPEP § 2143.03).

Thus, it is respectfully requested that all of the claims be allowed based on the amendments and arguments. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. Additionally, in an effort to further the prosecution of the subject application, the Applicants kindly invite the Examiner to telephone the Applicants' attorney at (818) 885-1575 if the Examiner has any questions or concerns. Please note that all correspondence should continue to be directed to:

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Respectfully submitted,
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